

# **EXHIBIT 5**

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

13 WARREN GARDNER, *et al.*,

14 Case No.: 3:19-cv-02561-WHO

15 Plaintiffs,

16 v.  
17 **PLAINTIFFS' SECOND SET OF REQUESTS**  
18 **FOR PRODUCTION OF DOCUMENTS**

19 STARKIST CO., a Delaware corporation,

20 Defendant.

1 PROPOUNDING PARTY: Plaintiffs WARREN GARDNER, LORI MYERS,  
2 ANGELA COSGROVE, AUTUMN HESSONG,  
3 ROBERT MCQUADE, COLLEEN MCQUADE,  
4 JAMES BORRUSO, FIDEL JAMELO, JOCELYN  
5 JAMELO, ANTHONY LUCIANO, LORI  
6 LUCIANO, ROBERT NUGENT, AVRAHAM  
7 ISAC ZELIG, KEN PETROVCIK, MEGAN  
8 KIIHNE, KATHLEEN MILLER, TARA  
9 TROJANO, JASON PETRIN, AMY TAYLOR,  
10 HEATHER MEYERS, AND RACHEL PEDRAZA  
11  
12 RESPONDING PARTY: Defendant STARKIST CO.  
13  
14 SET NO.: TWO (2)

15 Pursuant to Federal Rules of Civil Procedure Rule 34, Plaintiffs Warren Gardner, Lori  
16 Myers, Angela Cosgrove, Autumn Hessong, Robert McQuade, Colleen McQuade, James Borruso,  
17 Fidel Jamelo, Jocelyn Jamelo, Anthony Luciano, Lori Luciano, Robert Nugent, Avraham Isac  
18 Zelig, Ken Petrovcik, Megan Kiihne, Kathleen Miller, Tara Trojano, Jason Petrin, Amy Taylor,  
19 Heather Meyers, and Rachel Pedraza hereby request that Defendant StarKist Co., produce copies  
20 or permit Plaintiffs to inspect and copy originals of the documents described herein that are in the  
21 possession, custody, or control of Defendant or its officers, agents, employees, attorneys or any  
22 and all persons acting on its behalf within 30 days of service of these requests for production.  
23 Plaintiffs request that the documents be made available for inspection at the offices of Bonnett,  
24 Fairbourn, Friedman and Balint, PC, 600 West Broadway, Suite 900, San Diego, CA 92101 unless  
25 such other date or place is mutually agreed upon by counsel for the parties.

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## DEFINITIONS

1. “And” and “or” are to be considered conjunctively and disjunctively. The singular form of a noun or pronoun includes the plural form and vice versa. “Or” is understood to include and encompass “and”.

2. “Any” is understood to encompass “all”. The word “all” also includes “each” and vice versa.

3. “Document” means all documents, communications, information, or tangible things within the scope of Federal Rules of Civil Procedure 26 and 34, including electronically stored information.

4. "NOAA" means the National Oceanic and Atmospheric Administration.

11       5.     “Product(s)” means all StarKist cans, pouches, or other packaged shelf-stable tuna  
12 distributed for retail sale in the United States.

13       6.     “Relate,” “relating to,” “concerning,” or “regarding” include, but are not limited  
14 to the following meanings: bearing upon, addressing, evidencing, respecting, discussing,  
15 mentioning, describing, reflecting, responding to, identifying, constituting, pertaining to, having  
16 to do with, or being in any way pertinent to the given subject.

17 7. "Relevant Time Period" means from May 13, 2015 to present.

18        8.        "StarKist," "You," "Your," or "Manufacturer" means StarKist Co., its past and  
19 present parents, subsidiaries, affiliates, predecessors, successors, employees, independent  
20 contractors, officers, agents, vendors, accountants, and all other persons or entities acting on its  
21 behalf or under its direct or indirect control including, without limitation, Dongwon.

## INSTRUCTIONS

23        1. Unless otherwise stated, each Definition and Request herein is limited to the  
24 Relevant Time Period.

25       2. Whenever a reference to a business entity appears, the reference shall mean the  
26 business entity, its affiliated companies, partnerships, divisions, subdivisions, directors, officers,  
27 employees, agents, clients, or other representatives of affiliated third parties.

1       3.     Privilege/Redaction Log. If any documents are within the scope of any request  
2 for production but are not being produced or are being produced with portions redacted, pursuant  
3 to any claim of privilege or confidentiality:

- 4           a. State the nature of the privilege claimed (i.e., attorney client, work-product, etc.);  
5           b. State the name of the attorney, if any, with respect to whom the privilege is  
6           claimed;  
7           c. State the facts upon which you rely as the basis for claiming any privilege as to  
8           the specific information or document; and  
9           d. State the name of such document; identify the type of document (i.e., letter, memo,  
10           etc.); set forth the subject matter thereof; identify the person who prepared it and  
11           each person (if any) who signed it; identify each person to whom it was directed,  
12           circulated or shown; and identify each person now in possession of the document.  
13           If any document is produced in redacted form, the word “redacted” is to be placed  
14           in the redacted section of the document.

15       4.     All documents shall be produced that respond to any part or clause of any  
16 paragraph of these requests.

17       5.     The documents to be produced pursuant to these requests specifically embrace, in  
18 addition to documents within your possession, custody or control, documents within the  
19 possession, custody or control of any of your agents, accountants, representatives, or attorneys.  
20 Such documents also embrace originals, and identical copies (whether different from the original  
21 because of notes made thereon or otherwise) of the documents described in these requests.

22       6.     Destruction Log. In the event that any document called for by these requests has  
23 been destroyed or discarded, that document is to be identified by stating:

- 24           a. The nature of the document;  
25           b. Any addressor or addressee;  
26           c. Any indicated or blind copies;  
27           d. The document’s date, subject matter, number of pages, and attachments or

1 appendices;

- 2 e. All persons to whom the document was distributed, shown or explained;  
3 f. Its date of destruction or discard, manner of destruction or discard; and  
4 g. The persons authorizing or carrying out such destruction or discard.

5 7. The following requests are continuing in nature and in the event you become  
6 aware of or acquire additional information relating or referring thereto, such additional  
7 information is to be promptly produced.

8 8. Documents attached to each other in their original form should not be separated.

9 9. In your response to each request, please: (a) identify by bates number or control  
10 number the document or documents being produced in response to such request; and (b) identify  
11 the person and department from whose files the documents is being produced.

## 12 FORM OF PRODUCTION

13 10. Documents should be produced in the form set forth in Plaintiffs' First Set of  
14 Requests for Production of Documents.

## 15 DOCUMENTS TO BE PRODUCED

16 REQUEST FOR PRODUCTION NO. 52: All Documents sufficient to identify the percentage  
17 of Your tuna sold in the United States that was sourced from Boats You own or which You or  
18 Your owners have a financial interest.

19 REQUEST FOR PRODUCTION NO. 53: All NOAA Form 370 – Fisheries Certificate of  
20 Origin submitted for tuna in Your Products.

22 REQUEST FOR PRODUCTION NO. 54: All Captain's Statements from all Boats that supplied  
23 the tuna in Your Products.

24 REQUEST FOR PRODUCTION NO. 55: All International Dolphin Conservation Program  
25 Tuna Tracking Forms recorded for fishing sets that supplied any of the tuna in Your Products.  
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1 REQUEST FOR PRODUCTION NO. 56: All competitive and market analyses for Your  
2 Products, including, but not limited to, any Strength Weakness Opportunities and Threats (SWOT)  
3 analyses, analyses of competitors and competitor products, labels, eco claims, pricing, market  
4 share, and market size.

6 | Dated: September 3, 2020

BONNETT, FAIRBOURN, FRIEDMAN  
& BALINT, P.C.

/s/*Patricia N. Syverson*  
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1                   **CERTIFICATE OF SERVICE**

2                   I hereby certify that on September 3, 2020, I served **PLAINTIFFS' SECOND SET OF**  
3                   **REQUESTS FOR PRODUCTION OF DOCUMENTS** by email and first class mail to:

5                   PILLSBURY WINTHROP SHAW PITTMAN LLP  
6                   ROXANE A. POLIDORA  
7                   roxane.polidora@pillsburylaw.com  
8                   LEE BRAND  
9                   lee.brand@pillsburylaw.com  
10                  Four Embarcadero Center, 22nd Floor  
11                  San Francisco, CA 94111-5998

12                  Attorneys for Defendant  
13                  STARKIST CO.

14                  I declare under the penalty of perjury that the foregoing is true and correct. Executed  
15                  September 3, 2020 at San Diego, California.

16                  */s/ Patricia N. Syverson*  
17                  Patricia N. Syverson  
18                  *Attorney for Plaintiffs*